IN THE HIGH COURT OF DELHI AT NEW DELHI

Bail Application No.1239/2007

Hari Gopal Wadhwa & Anr. .....Petitioners
! through: Mr.R.N.Mittal, Mr.V.Shekhar, Sr.Advocates with Mr.Puneet Mittal, Mr.Pawan K. Mittal Mr.Pradeep Kr. Dubey, Mr.Sudhir K. Sajwan,Advocates

VERSUS

$ State .....Respondents
^ through: Mr. Anil Soni, Advocate for State

% **D**ATE OF DECISION: 20-08-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: PRADEEP NANDRAJOG, J.
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FIR No.138/2007 dated 26.3.2007
U/s. 498-A/304-B/34 IPC
P.S. Vasant Vihar.

1. Petitioners are the father-in-law and the mother-in-law of the deceased Manisha. She was married to Amit, son of the petitioners on 10.12.2001. She died an unnatural death on 26.3.2007. It has been opined to be a case of suicide.

2. FIR has been registered on basis of statement made before the Sub-Divisional Magistrate by Devender Pal, father of the deceased.

3. In his statement before the learned SDM, Devender Pal

Singh stated that his daughter was being continuously harassed for dowry. That his daughter came under mental stress due to persistent harassment. That his daughter used to be beaten.

4. The statement is in question answer form. It reads as under :-

"Q. What is your name?

Ans. Devender Pal Singh.

Q. What's your relation with deceased Manisha?

Ans. She was my elder daughter.

Q. When was Manisha married?

Ans. She was married on 10.12.2000. Manisha has a daughter aged about 3 years.

Q. Was the marriage of Anil and Manisha arranged or love marriage?

Ans. It was an arranged marriage which took place with the approval of both the families.

Q. How and when you received the information of this incident?

Ans. Today evening at about 3.30 p.m we all went to Ram Mandir near our house when my son-in-law Amit called my son Gaurav on mobile and found that Manisha is no more and that you should come.

Q. What happened later on?

Ans. Within 8-10 minutes of said call we reached the house of her in-laws. Till that time police had also

reached. Manisha was lying on bed in the bedroom and she was dead. Manisha's in-laws were also present in the house at that time in other room.

Q. Were Manisha's in-laws used to harass her for dowry?

Ans. Yes, they used to demand cash every time and we used to give according to our competence. About 10-15 days ago, Rs.5 lakhs was demanded, which we could not pay. These people used to harass her in every manner and used to threaten that we will turn you out of the home.

Q. Were they used to fight and beat her?

Ans. Yes, they used to beat Manisha every time. About 20-22 days ago, next day to Holi, Manisha's husband slapped her, which was reported to police also. Besides, this information was given to police which should be in the records of Local Police.

Q. Do you think that Manisha committed suicide?

Ans: Manisha was a brave girl. Therfore I think that she had not committed suicide but was killed.

Q. Who do you think were involved in the said incident?

Ans. I am suspicious that Manisha's husband (Amit Wadhwa), Father-in-law (Hari Gopal Wadhwa), Mother-in-law (Beena Wadhwa), Paternal grand

mother (do not know the name), Uncle (nick name is Pappu who resides in A-Block Munirka), sister-in-law (Geeta Kar), Brother-in-law (Nandoi, Amit Kar), Paternal Aunt (Shashi), Another Paternal Aunt (I do not know the name), Aunti (I do not know the name, she also resides in A-Block Munirka), Smt. Malhotra who is Amit Wadhwa's neighbour. All these people in collusion with each other have killed Manisha.

Q. Do you want any action?

Ans. Yes I want that strict action be taken against them.

Q. Do you want to say anything?

Ans. Manisha was kept in immense mental pressure due to which she used to suffer paralytic attack. I do not want to say any thing."

5. Supplementary statement of Devender Pal Singh was recorded on 26.4.2007. On said date statement of the brother of the deceased as also her mother was recorded by the police.

6. As per the version put forth by the petitioners it is stated that their son married Manisha as the two had decided to get married. That the petitioners had no objection to the marriage. That immediately after marriage, Manisha started compelling her husband to reside separately from his parents. That she started demanding partition of the family property so that she and her husband could separate. That she and their son

shifted out to an independent flat after 3 months of the marriage. That after 10-11 months the couple came back and apologized for leaving the petitioners. But soon thereafter she, i.e. Manisha as also their son started demanding their share in the family property. That Manisha used to extend threat that if her demands were not satisfied she would commit suicide.

7. Petitioners relied upon a communication sent by them to various police officials on 25.2.2005. Petitioners produced for perusal of the court a copy of the communication sent by them on 25.2.2005 evidencing either receipt thereof by different police departments or posting thereof by registered post.

8. Petitioners further relied upon a letter dated 5.3.2007 addressed by Manisha to the SHO, P.S. Vasant Vihar wherein she wrote as under :-

> " SHO, Date: 5/3/2007
> Vasant vihar
> New Delhi.
>
> Dear Sir,
>
> With reference to our talk with SI, Sh.Randhir Singh Ji, I would like to say that we will settle the issue/dispute among us, and please no further action or report need to be taken. The telephone call was made by my Father-in-law.
>
> Thanking you,
>
> Your's Faithfully,
> sd/-
> (MANISHA WADHWA)
> F-5A, DDA Flats
> Munirka.-110067
> Ph: 26178131

9. Petitioners further relied upon a supplementary statement made by Devender Pal Singh to the police on 26.4.2007 as also statements recorded by the police under Section 161 Cr.P.C. as made by the brother and the mother of the deceased.

10. Petitioners relied upon the 3 statements wherein parents and brother of the deceased told the police that in-laws of Manisha used to taunt her of being a dark complexioned girl (*kali kaluti).*

11. In a nutshell, Shri R.N.Mittal, learned senior counsel for the petitioners urged that the statements made by the father, mother and the brother of the deceased to the police on 26.4.2007 evidenced that real grievance was that Manisha was being ill treated due to her physical features and not on account of dowry demand. Learned counsel further submitted that letter dated 25.2.2005 written by the petitioner to various police authorities was proof that Manisha was blackmailing the petitioners to part company with her husband's share in the family property. According to learned counsel for the petitioners, far from being aggressors, petitioners were on the receiving end.

12. Advancing the argument further, by placing reliance upon letter dated 5.3.2007 addressed to the SHO by Manisha, counsel stated that a few days prior to 5.3.2007, their son and Manisha had a fight. Since petitioners were troubled by the conduct of their son and their daughter-in-law, first petitioner

gave information to the local police about the fight between his son and his daughter-in-law. Therefrom, an inference could be drawn as to what was the state of affairs in the house.

13. Learned counsel for the State has not disputed that the incident in respect whereof police was summoned and Manisha vide her letter dated 5.3.2007 had requested police to close the issue, was reported to the police by the first petitioner.

14. Before proceeding to analyse the submissions made by learned counsel for the petitioners, a fact needs to be noted.

15. 11 persons have been named by the father of the complainant as the perpetrators of the crime. They are :-

16. i) Husband, ii) Father-in-law, iii) Mother-in-law, iv) Paternal grandmother, v) 4 Paternal aunts, vi) sister, vii) brother-in-law and even a neighbour Smt. Malhotra.

17. Virtually the entire extended family of the in laws of deceased Manisha has been implicated.

18. In the decision reported as AIR 2000 SC 2324 *Kans Raj Vs. State of Punjab* the Supreme Court noted and also deprecated the tendency of falsely roping in all relations of the in-laws of the deceased in matters of dowry death. Their Lordships cautioned that if this trend was not discouraged it would affect the case of the prosecution even against the real culprits.

19. It is unfortunate that the police continues to encourage naming of all and sundry while recording statements.

20. As would be evidenced from the questions put by the

learned SDM to the father of the deceased, suggestions have been put to the father of the deceased while eliciting information.

21. Where was the need to specifically put questions whether Manishsa was being harassed for dowry and whether she was being beaten up.

22. The job of the SDM was to record a statement voluntarily made and not to lead the maker of the statement into giving pre-determined and designed statements.

23. What would a neighbour gain by dowry harassment? Prima facie, nothing.

24. Yet in spite thereof, even a poor neighbour has been dragged into the controversy.

25. Letter dated 5.3.2007 written by Manisha as also the admitted fact that police was summoned by first petitioner evidences that Manisha and her husband had a fight which required police to be summoned. This shows the anxiety of the petitioners to stay clear of the possible consequences of the discord between their son and their daughter-in-law. This, read co-jointly with the letter dated 25.2.2005 written to the police authorities by the petitioners further reinforces the claim of the petitioners that they wanted to stay clear of any involvement on account of they being the father-in-law and mother-in-law of Manisha.

26. I find force in the lament made by learned counsel for the petitioners who while concluding submissions, posed a

question : what else can the parents of a boy do if they find matrimonial problems created when daughter-in-law comes to the house, other than to fore warn the police authorities?

27. No doubt, an unnatural death is always a cause for concern and if proved that the daughter-in-law of the family was compelled to take her own life as it was rendered not worth living by the in-laws, they must suffer. But personal liberties have to be preserved, meaning thereby, in an appropriate case, accused has to be set free till trial concludes.

28. Instant case falls in the exception; requiring bail to be granted.

29. Petition stands disposed of directing learned Trial Judge to release petitioners on bail on petitioners furnishing a personal bond in sum of Rs.25,000/- with one surety each in the like amount to the satisfaction of the learned Trial Judge in the above captioned FIR.

30. Needless to state, if they hold a pass port, petitioners would surrender their pass ports and would not threaten or even get in touch with any witness of the prosecution.

31. Copy of this order be supplied dasti to learned counsel for the petitioners.

20 August, 2007 PRADEEP NANDRAJOG, J.
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